

Federal Maritime Commission

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component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and fifteen copies with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$241 filing fee.

(b) Petitions shall set forth the following:

(1) The name and address of the petitioner;

(2) The name and address of each party (foreign government, agency or instrumentality thereof, carrier, or other person) against whom the petition is made, a statement as to whether the party is a foreign government, agency or instrumentality thereof, and a brief statement describing the party's function, business or operation;

(3) The name and address of each United States carrier alleged to be adversely affected, and a description, and if possible, documentation, of why each is considered by petitioner to be a United States carrier;

(4) A precise description and, if applicable, citation of any law, rule, regulation, policy or practice of a foreign government or practice of a foreign carrier or other person causing the conditions complained of;

(5) A certified copy of any law, rule, regulation or other document involved and, if not in English, a certified English translation thereof;

(6) Any other evidence of the existence of such laws and practices, evidence of the alleged adverse effects on the operations of United States carriers in United States oceanborne trade, and evidence that foreign carriers of the country involved are not subjected to similar adverse conditions in the United States.

(7) With respect to the harm already caused, or which may reasonably be expected to be caused, the following information, if available to petitioner:

(i) Statistical data documenting present or prospective cargo loss by United States carriers due to foreign government or commercial practices for a representative period, if harm is alleged on that basis, and the sources of the statistical data;

(ii) Statistical data or other information documenting the impact of the foreign government or commercial practices causing the conditions complained of, and the sources of those data; and

(iii) A statement as to why the period used is representative.

(8) A separate memorandum of law or a discussion of the relevant legal issues; and

(9) A recommended action, including any of those enumerated in § 555.8, the result of which will, in the view of the petitioner, address the conditions complained of.

(c) A petition which the Commission determines fails to comply substantially with the requirements of paragraph (b) of this section shall be rejected promptly and the person filing the petition shall be notified of the reasons for such rejection. Rejection is without prejudice to the filing of an amended petition.

[54 FR 11533, Mar. 21, 1989, as amended at 63 FR 50537, Sept. 22, 1998; 64 FR 8010, Feb. 18, 1999; 64 FR 23551, May 3, 1999; 67 FR 39861, June 11, 2002; 70 FR 10331, Mar. 3, 2005]

§ 555.5 Investigations.

(a) An investigation to determine the existence of adverse conditions as described in § 555.3 may be initiated by the Commission on its own motion or on the petition of any person pursuant to § 555.4. An investigation shall be considered to have been initiated for the purpose of the time limits imposed by the Foreign Shipping Practices Act of 1988 upon the publication in the FEDERAL REGISTER of the Commission's notice of investigation, which shall announce the initiation of the proceeding upon either the Commission's own motion or the filing of a petition.

(b) The provisions of part 502 of this chapter (Rules of Practice and Procedure) shall not apply to this part except for those provisions governing *ex parte* contacts (§ 502.11 of this chapter) and except as the Commission may otherwise determine by order. The precise procedures and timetables for participation in investigations initiated under this part will be established on an *ad hoc* basis as appropriate and set forth in the notice. Proceedings may include oral evidentiary hearings, but

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only when the Commission determines that there are likely to be genuine issues of material fact that cannot be resolved on the basis of written submissions, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. In any event, investigations initiated under this part shall proceed expeditiously, consistent with due process, to conform with the time limits specified in the Foreign Shipping Practices Act and to identify promptly the conditions described in § 555.3 of this part.

(c) Upon initiation of an investigation, interested persons will be given the opportunity to participate in the proceeding pursuant to the procedures set forth in the notice. Submissions filed in response to a notice of investigation may include written data and statistics, views, and legal arguments. Factual information submitted shall be certified under oath. An original and 15 copies of such submissions will be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. Persons who receive information requests from the Commission pursuant to § 555.6 of this part are not precluded from filing additional voluntary submissions in accordance with this paragraph.

(d) An investigation shall be completed and a decision rendered within 120 days after it has commenced as defined in paragraph (a) of this section, unless the Commission determines that an additional 90-day period is necessary in order to obtain sufficient information on which to render a decision. When the Commission determines to extend the investigation period for an additional 90 days, it shall issue a notice clearly stating the reasons therefor.

[54 FR 11533, Mar. 21, 1989. Redesignated at 64 FR 8010, Feb. 18, 1999, and amended at 67 FR 39862, June 11, 2002]

§ 555.6 Information demands and subpoenas.

(a) In furtherance of this part, the Commission may, by order, require any person (including any common carrier, shipper, shipper's association, ocean freight forwarder, or marine terminal

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operator, or any officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate, and in the form and within the time prescribed by the Commission. Responses to such orders may be required by the Commission to be made under oath.

(b) The Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence as it deems necessary and appropriate in conducting an investigation under § 555.5 of this part.

(c) The Commission may, in its discretion, determine that any information submitted to it in response to a request (including a subpoena) under this section, or accompanying a petition under § 555.4, or voluntarily submitted by any person pursuant to § 555.5(c), shall not be disclosed to the public. To this end, persons submitting information for consideration in a proceeding or investigation under this part may indicate in writing any factors they wish the Commission to consider relevant to a decision on confidentiality under this section; however, such information will be advisory only, and the actual determination will be made by the Commission. In the event that a request for confidentiality is not accommodated, the person making the request will be so advised before any disclosure occurs.

[54 FR 11533, Mar. 21, 1989. Redesignated at 64 FR 8010, Feb. 18, 1999, and amended at 67 FR 39862, June 11, 2002]

§ 555.7 Notification to Secretary of State.

Upon publication of a petition in the FEDERAL REGISTER, or on its own motion should it determine to initiate an investigation pursuant to § 555.5, the Commission will notify the Secretary of State of same, and may request action to seek resolution of the matter through diplomatic channels. The Commission may request the Secretary to